



**Guidelines Concerning a Harmonised Way of
Handling Non-RU Applicants**

Version 2.0

Version control

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1.0	RNE project Group	2015-12-03	Approved by the RNE General Assembly
1.1	Zita Koops-Árvai, RNE Senior Sales Manager based on proposals agreed with the Task Force	2020-01-15	Extending the scope from RFC lines to the whole network and to all trains
1.2	Máté Bak, Head of PCS, Tsvetan Tanev, Senior Legal Advisor based on proposals agreed with the Task Force	2020-01-17	Extending the 30-day deadline from RFC lines to the whole network (unless otherwise stipulated in national law) Defining a harmonised approach for the rights of Non-RU Applicants and RUs during the lifecycle of the train path
1.3	RNE Legal Matters WG	2020-02-04	Legal check
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1.5	Zita Koops-Árvai, RNE Senior Sales Manager	2020-02-10	
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Glossary/Abbreviations

Glossary/abbreviation	Definition
Applicants	As defined in Chapter 2 of this document.
Corridor Organisation	Governance structure of a Rail Freight Corridor (RFC) according to Article 8 of Regulation No 913/2010.
CID	Corridor Information Document according to Article 18 of Regulation No 913/2010.
Corridor OSS/C-OSS	A joint body designated or set up by the RFC for applicants to request and to receive answers, in a single place and in a single operation, regarding infrastructure capacity for freight trains crossing at least one border along the RFC (Article 13 of Regulation No 913/2010).
IM	Infrastructure Manager In this document, only the term Infrastructure Manager (IM) is applied. It refers to IMs and also – if applicable – to Allocation Bodies (ABs).
MB	Management Board of a RFC according to Article 8 (2) of Regulation No 913/2010.
Network Statement/NS	The statement which sets out in detail the general rules, deadlines, procedures and criteria for charging and capacity-allocation schemes, including such other information as is required to enable applications for infrastructure capacity (Article 3 (26) of Directive 2012/34/EU).
Non-RU Applicant	As defined in Section 3 below.
One-stop Shop/OSS	Either a joint body established by the IMs or one single IM involved in the train path crossing more than one network (Article 44 (4) Directive 2012/34). Applicants apply to an OSS for train paths crossing more than one network.
PCS (Path Coordination System)	A path coordination and allocation system for international passenger and freight rail transport designed, developed and operated by RNE.
Pre-arranged Path/s (PaP/PaPs)	A pre-constructed path on a Rail Freight Corridor according to Regulation No 913/2010. A PaP may be offered either on a whole RFC or on sections of the RFC forming an international path request crossing one or more international borders.
Rail Freight Regulation	Regulation (EU) No 913/2010 concerning a European rail network for competitive freight
RFC	Rail Freight Corridor. A Corridor organised and set up in accordance with Regulation No 913/2010.
RU	Railway Undertaking
Reserve Capacity (RC)	Jointly defined capacity for international freight trains running on the freight corridors, recognising the need for capacity of other types of transport, including passenger transport; this reserve is kept available within the IMs' final working timetables to allow for a quick and appropriate response to ad hoc requests for capacity (Article 14 (5) of Regulation No 913/2010)
TT	Timetabling / timetable

1 Background, scope and target group of this document

1.1 Background

In November 2010, Regulation No 913/2010 concerning a European rail network for competitive freight became a part of the legislative framework governing international rail freight in Europe. RNE, as a coordination platform for Corridor Organisations' Management Boards, took the initiative to provide the RFCs and their users with recommendations and guidelines concerning the functions that have to be set up and performed to meet the requirements of the Regulation. Accordingly, this document was drafted by an RNE Project Group within the framework of the following RNE project: 'Harmonized way of handling Authorised Applicants', which first phase ran between August 2014 and September 2015. In 2019, a task force was set up consisting of members of the RNE Sales and Timetabling Working Group who was mandated by the RNE Managing Board to develop a proposal for the harmonised way of handling Non-RU applicants in the timetabling process. With this, these Guidelines have been extended from the RFC lines to the entire network of RNE Members and from paths for international freight train paths to all train paths.

It is important to note that the national law or regulatory decisions include rules in some of RNE Members' countries which diverge from these Guidelines.

1.2 Scope and target group

These guidelines provide recommendations to all Members of RNE – both IMs/ABs and RFCs - for a harmonised way of handling Non-RU Applicants on their entire network during the whole lifecycle of a train path (from request to the actual train run). In addition, they are applicable both to national and international train paths, both to freight and passenger trains, as well as in for annual timetable, late and ad-hoc paths.

These guidelines address all levels of RNE and its Members. They are also a supporting document for Corridor Organisations, Infrastructure Managers (IMs), Railway Undertakings (RUs) and Non-RU Applicants using train paths.

All information – also going beyond the scope of these Guidelines - regarding the rights, obligations and possibilities of Non-RU Applicants, as well as the processes between the IMs/ABs/RFCs and the Non-RU Applicants have to be provided by the IMs/ABs in their Network Statements (NSs) and by the RFCs in their Corridor Information Documents (CIDs). Therefore, the applicants should always consult the respective NSs of the IMs and CIDs of the RFCs.

1.3 EU law and RNE documents relevant for these Guidelines

- Directive 2012/34 establishing a single European railway area (recast)
- Regulation No 913/2010 concerning a European network for competitive freight
- RNE Guidelines for C-OSS concerning PaP and RC Management

2 Who is an Applicant? (i.e. who is allowed to request paths)

Taking the definition of the "Authorized Applicant" stipulated in the Regulation No 913/2010 and the definition of 'Applicant' in Directive 2012/34 into consideration, Applicants can be divided into two groups:

- **RU Applicants** – RUs and International groupings of RUs¹
Non-RU Applicants - other persons or legal entities with a public-service or commercial interest in procuring infrastructure capacity

3 Before submitting a path request

3.1 Should the interest of Non-RU Applicants be proven?

Neither Regulation No 913/2010 nor Directive 2012/34 (except Article 41 (2)) prescribes any means of investigation of an interest, therefore it is assumed that a Non-RU Applicant with the intention to submit a request for a path has a valid public-service or commercial interest in procuring the given infrastructure capacity. However, in limited, exceptional circumstances, the OSS/C-OSS working with the relevant IMs/ABs may make further enquiries to confirm the existence of a public-service or commercial interest. If such a process is applicable, its means of investigation are up to each individual OSS/C-OSS and it has to be described in the NS/CID.

3.2 Contractual arrangements with Non-RU Applicant

The contractual arrangements with the Non-RU Applicant are up to each individual IM/AB.

If the path request includes a PaP section, before applying for the path/s, a simple declaration of acceptance by Non-RU Applicants of the conditions set out in the Corridor Information Documents (CIDs) of RFCs / Network Statements (NSs) of IMs and ABs is needed. The contractual arrangements between the Non-RU Applicants and the IMs/ABs can be applied and is up to each IM/AB's decision

4 Rights and obligations of Non-RU Applicant towards the IMs/ABs and RFCs

4.1 Rights

A Non-RU Applicant has the right

- To request capacity
- To modify or withdraw the request
- To participate in the coordination process in case of conflict
- To accept or refuse the alternatives offered by the OSS/C-OSS
- To accept or refuse the Draft Offer and the Final Offer
- To ask for modification or to cancel the allocated capacity
- To change the appointed RU/RUs

The right to request path modification or cancel the train path can be exercised by the appointed RU on behalf of the Non-RU Applicant, if the RU is duly authorised to do it (e.g. contract, delegation of power, etc.). In addition to any contractual arrangements in writing, any such delegation could be done in the respective IT tool and can be withdrawn by the Non-RU Applicant at any time.

It must be clearly communicated by the Non-RU Applicant to the IM/AB if the appointed RU during the performance of the contract with the Non-RU Applicant, has been given the right to request, on behalf of the Non-RU Applicant, modifications or cancellations of the train paths allocated to the

¹ If the International grouping of RUs is a legal entity, it is considered as a Non-RU Applicant. If the International grouping of RUs is not a legal entity, the grouping may request paths but only the RUs forming the grouping may be allocated the path.

Non-RU Applicant. Train paths allocated to a Non-RU Applicant gives that legal entity full legal disposal over the allocated train paths. Thus, if the appointed RU is enabled to request modification/cancellations by proxy on behalf of the Non-RU Applicant, this shall not be considered a transfer of the rights of disposal and any modified train paths shall be allocated to the Non-RU-Applicant.

As far as operational matters are concerned with an impact on the allocated path (e.g. international contingency management, force majeure, etc.), the IM/AB will contact the RU/RUs.

4.2 Obligations

The Non-RU Applicant shall

- follow the steps listed in point 4.1 in PCS if an international train path is concerned (depending on the rules of involved IMs/ABs)
- accept the CID/NS conditions if a PaP section is included (tick-off function in PCS)
- change the allocated path parameters after the acceptance of the Final Offer only according to the CID/NS conditions
- pay fees – if any are requested
- appoint the RU/RUs

5 Appointment of an RU for the use of the train path

A Non-RU Applicant shall appoint an RU for the use of the train path. It may appoint either one RU for the whole request or different RUs for the different days of operation within the same request. A Non-RU Applicant may also appoint different RUs for different sections of a single international path. With regard to safety and liability issues, the handover points from one RU to another RU shall be clearly defined by the Non-RU Applicant.

It is recommended to have a harmonised deadline for appointing an RU along the whole train path. From a timetabling point of view, there is no point in making any difference between the annual timetable and the running timetable, so the deadline should be the same.

Based on the simplified process outlined by the RNE Sales & Timetabling Working Group (see **Annex A**), the deadline shall be **30 days** before the first operation day of allocated path(s) at the latest, unless it is stipulated differently in national law. If the path request is submitted less than 30 days before the train run, the RU shall be appointed when the path request is submitted.

In case of change of the appointed RU, the Non-RU Applicant shall appoint a new RU also 30 days before the first operation day of the new RU at the latest (see **Annex B**) unless it is stipulated differently in national law.

The appointment of an RU means that the IM/AB are duly notified of the nomination of the RU/RUs by the Non-RU Applicant.

In case of no valid appointment by the Non-RU Applicant, the allocated path may be considered cancelled, so that the given infrastructure capacity will not remain unused and will become available again for other interested applicants.

IMs/ABs may request the acceptance of the nomination by the RU/RUs as part of the appointment. In this case, the allocated path is also considered cancelled if the nomination is not accepted by the RU before the deadline above.

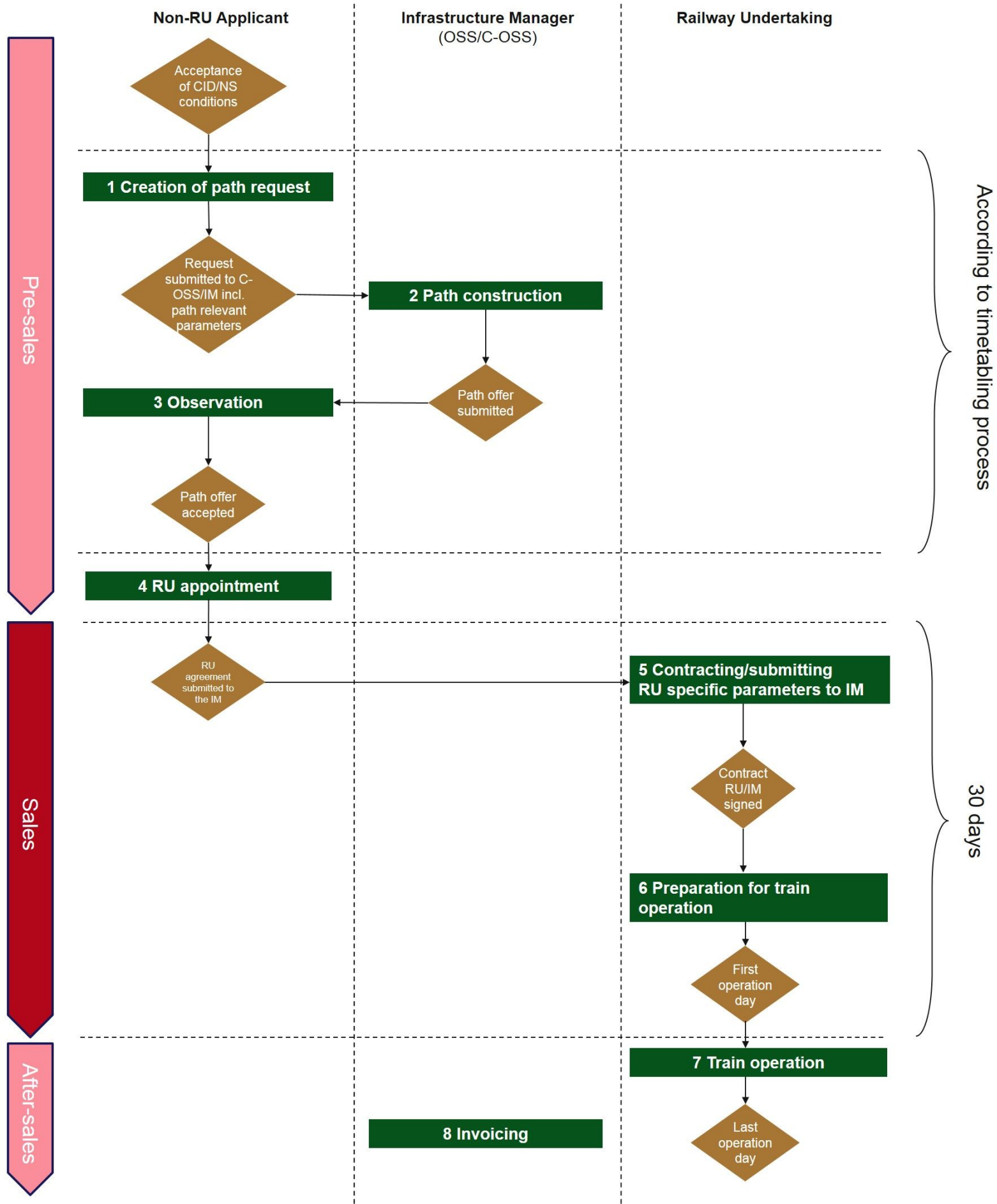
The appointment of the RU by the Non-RU Applicant and the acceptance (refusal) of the appointment have to be carried out in an IT system (e.g. PCS) (depending on the rules of involved IMs/ABs).

6 Checklist for functional requirements

The following is a checklist for the functional requirements that will be needed for PCS for the implementation of these Guidelines:

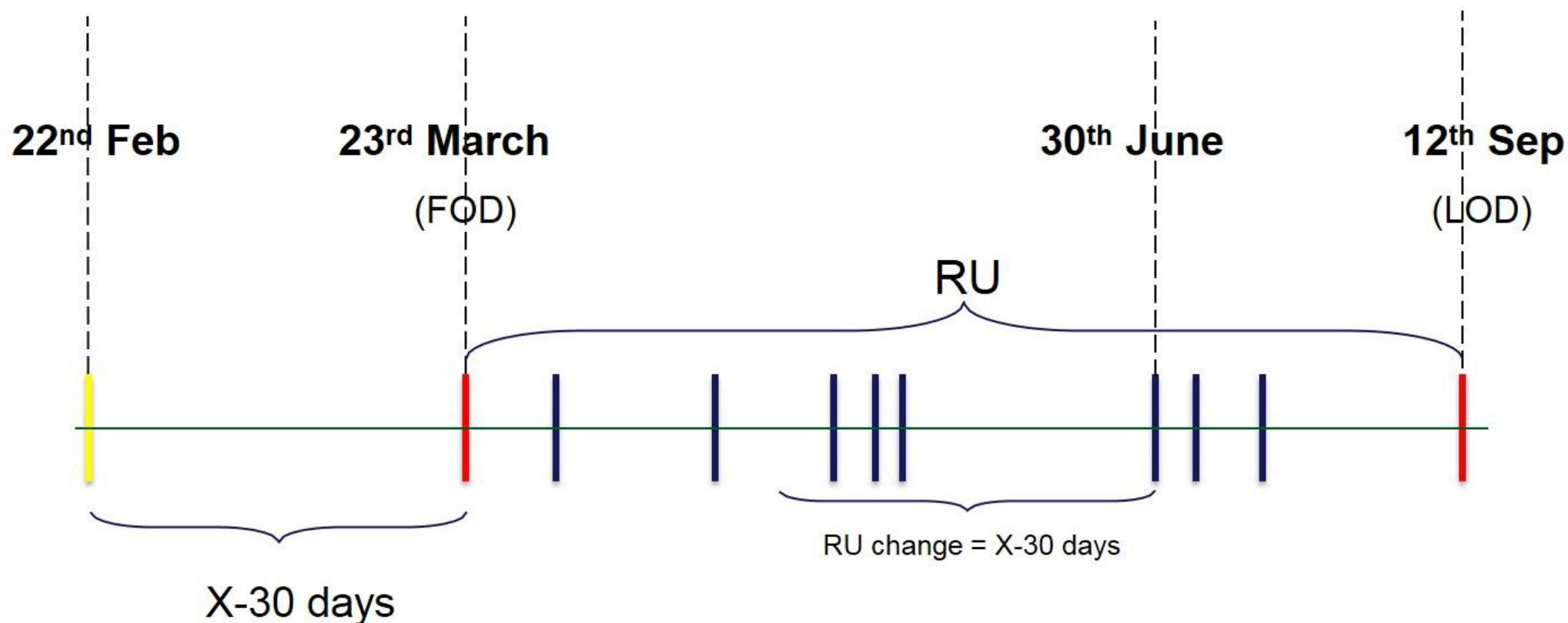
- appointment of RU by Non-RU Applicant
- notification sent to the nominated RU, so that the RU will be informed that it has been nominated by a Non-RU Applicant
- acceptance of nomination by RU
- notification sent to the Non-RU Applicant and IM/IMs concerned, so that both will be informed that RU has accepted the nomination
- refusal of nomination by RU
- notification sent to the nominated RU (RUs) in case of changed /cancelled nomination by the Non-RU Applicant
- possibility to change the appointed RU and notification to the previously appointed RU about the cancellation of the nomination
- possibility to appoint different RUs for different days of operation and different sections
- possibility for the Non-RU Applicant to delegate the right to the RU to modify or cancel the train path, and possibility for the Non-RU Applicant to withdraw the authorisation

Annex A - Simplified process for non-RU Applicant



Annex B – X-30 Day Rule Application

(Please note that all dates below are chosen at random)



Notes:

1. The RU should be appointed for all running days from 23rd March to 12th Sep already on 22nd February at the latest.
2. In case of change of the appointed RU, the non-RU applicant shall make a new appointment also 30 days before the first running day of the new RU (30th June above) at the latest.

Legend:

FOD = First Operation Day

LOD = Last Operation Day

RU = Railway Undertaking